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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 10/712,156 | 11/12/2003 | Erol Bozak | 13913-149001 / 2003P00474 | 8253 |
| 22852 7590 02/07/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 | | | EXAMINER BARQADLE, YASIN M | |
| | | | ART UNIT 2153 | PAPER NUMBER |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 02/07/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|-------------------|--------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/712,156 | BOZAK ET AL. | |
| | Examiner | Art Unit | |
| | Yasin M. Barqadle | 2153 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

The amendment filed on November 15, 2006 has been fully considered but are moot in view of the new ground(s) of rejection.

Response to Arguments

In response to Applicant's arguments "The Examiner's willingness to previously search and examine the claims in Groups I and II, which remain in original form, demonstrates the lack of a "serious search burden," as required by MPEP § 806.05(c)."

Examiner notes that even though the examiner made a text search previously, after careful review of the Applicant's invention as claimed that a restriction is required. In the restriction requirement mailed October 20, 2006, the Examiner has clearly stated why a restriction is required. Examiner has shown the existence of a serious burden on the examiner due to the presence of separate classification and a different field of search as defined in MPEP § 808.02. Examiner would like to refer the Applicant the reasons given in the previous restriction requirement. Examiner maintains that the restriction requirement between groups I and II is proper.

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- Claims 1-8 and 19-20 are presented for examination.
- Claims 9-18 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrett et al Patent Number (5699532) hereinafter "Barrett".

As per claim 1 and 19, Barrett teaches a method comprising:

receiving, from an application process, a document specifying a communication protocol and a communication channel "The XID message of FIG. 5 comprises a header field 90 identifying the type of local station, the address of the destination and the length of the XID message. Field 91 carries an identification of the multi-path channel group to be activated while field 92 contains the status of the multi-path

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channel group (active or inactive). Field 93 contains an identification of a particular user protocol, for example, the SNA protocol" col. 9, lines 8-31 and col. 16, lines 47-52);

reading the document; instantiating the communications channel with the application process using the communication protocol (A user application such as user application 60 in FIG. 4 communicates with the multi-path channel interface such as interface 61 in FIG. 4 by means of messages directing the MPC to allocate, activate, and deactivate multi-path channel groups, and to start sending data and complete sending data" col. 8, lines 49-64 and col. 9, lines 39-59)

sending communications to the application process using the communication protocol through the communication channel (col. 9, lines 39-59. See also col. 11, lines 44-51); and

receiving communications from the application process using the communication protocol through the communication channel (Once the sub-channels of a transmission group are physically enabled, one or more exchange identification (XID) messages are exchanged between the two ends of each sub-channel to prepare for the transmission of user data. As discussed in connection with FIGS. 5 and 6, part of this exchange may be to determine the user protocols and to negotiate desired transmission

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parameters such as buffer sizes or link sizes. Col. 8, lines 49-64 and col. 9, lines 39-59. See also col. 11, lines 44-51) As per claim 2 and 20, Barrett teaches the method of claim 1 further comprising:

 sending a request for data describing the application process and its requirements; and receiving data describing the application process and its requirements (col. 9, lines 39-59. See also col. 11, lines 14-51).

As per claim 3, Barrett teaches the method of claim 2 wherein the data comprises process identification or degree of consumption of a resource by the application process (col. 7, lines 34-45 and col. 10, lines 12-30)

As per claim 4, Barrett teaches the method of claim 3 wherein the data further comprises a definition of the resource (col. 7, lines 34-45 and col. 10, lines 12-30 and fig. 5-6).

As per claim 5, Barrett teaches the method of claim 3 wherein the resource comprises one or more of a central processing unit, memory, socket bindings, memory storage space, and communication bandwidth (col. 7, lines 34-45 and col. 10, lines 12-30).

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As per claim 6-8, Barrett shows performing actions such allocate, de-allocate process a command to the application process to perform an action, wherein the action is one of start, stop, wait, resume, and change priority col. 7, lines 34-45 and col. 8, lines 3-11 and 49-65).

Conclusion

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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RUPAL DHARIA
SUPERVISORY PATENT EXAMINER